

THE LAW OFFICES OF LINDA M. TIRELLI PC

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* Admitted CT, USDCCT and SDNY

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JUNE 12, 2012

RETAINER AGREEMENT

Re: Mr. Prem Nath, Ch 13 Debtor
Bankruptcy Case Number 11-23730(rdd) S.D.N.Y.

Mr. Prem Nath (hereinafter referred to as the "Debtor") hereby retain The Law Offices of Linda M. Tirelli, PC ("LOLMT") as legal counsel for the sole and special purposes of:

- A) pursuing a contested action against Select Portfolio Servicing, (including its agents, successors or assigns and any and all other such parties as may be required) a claimant in the Debtor's pending bankruptcy action (hereinafter "Claimant"); and
- B) For substituting as counsel for the pending base Chapter 13 case

Debtor and LOLMT hereby agree that a contested action against Claimant in the Debtors' pending bankruptcy action and the continuing oversight of the base Chapter 13 case, shall be resolved as follows:

1. It is the intent of the Debtor and LOLMT to pursue an objection as a contested matter ("litigation") against the proof of claim filed by Claimant in debtor's current bankruptcy case pending in the Southern District of New York by way of "Motion Objecting to Proof of Claim" and/or by way of "Adversary Proceeding."
2. Debtor agrees that LOLMT shall remain as attorney of record for all matters pertaining to the base case as set forth in this retainer agreement. LOLMT is retained for the purpose of the Debtors' base bankruptcy case. There is no affiliation or agreement as between LOLMT and any prior counsel to the Debtor or any firm previously representing the Debtor in either the pending chapter 13 case or the pending contested matter as between the Debtor and Claimant. There is no fee arrangement as between LOLMT and any other attorney or law firm.


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*The Law Offices of Linda M. Tirelli, designated as a Federal Debt Relief Agent by an Act of Congress and the President of the United States, proudly assists consumers seeking relief under the US Bankruptcy Code. Attorney Linda Tirelli is a proud and active member of the NACBA, NACA and Max Gardner's Bankruptcy Boot Camp and is devoted to the assistance of consumer debtors.

3. It is understood and agreed by the Debtors and LOLMT that the hourly rate for work and services performed by Attorney Linda Tirelli is \$500.00 and the hourly rate of any paralegal or legal assistant for any work performed at the request of LOLMT or its attorneys is \$200.00. In the event assistance of additional attorney(s) not employed by LOLMT is required, the hourly rate of such additional attorney(s) will be no greater than \$500.00 per hour and will disclosed as circumstances require. It is hereby acknowledged that a retainer in the amount of \$1500.00 was received and is to be applied against the Debtor's non-litigation legal fees and/or expenses and disbursements.
4. All costs, expenses and disbursements incurred by and in said litigation of a contested matter or adversary proceeding shall be paid first from any proceeds received. The LOLMT shall be entitled to apply to the Court for approval of any expenses related to the litigation or the base bankruptcy case. Such expenses include but are not limited to court fees, telephone fees, fax fees, copy fees, postage fees, PACER fees, electronic or other research fees, court reporter fees, travel expenses, deposition fees, title search fees, expert fees, accounting fees, fraud examinations, expert reports, non-lawyer professional services, certified copies of certain documents as needed, and the like.
5. In the event there are no direct proceeds received from litigation, such disbursements may be charged to the Chapter 13 Plan to be paid upon approval of the Court.
6. The total settlement after deducting disbursements, shall be divided equally between the Debtors and LOLMT.
7. It is understood that there may be no settlement award to the Debtor. However, the Debtor may benefit from a modification of mortgage loan, reduction in loan principal, arrears or interest rate on said mortgage loan.
8. It is understood that legal fees may be paid by Claimant or its affiliate, successor or other third party, and if such charged legal fees are paid in full together with disbursements, the same will not be deducted from any settlement funds received in addition to the payment of the legal fees.
9. The Debtor shall not be liable for any litigation related legal fees other than the expenses referenced in paragraph 4 above, as may be incurred if there is no recovery; litigation legal fees are contingent upon recovery from the claimant, its affiliates, its attorneys or any party other than the Debtor. It is understood that legal fees incurred for matters pertaining to the base chapter 13 case, including fees for attending confirmation hearings, amending schedules and forms required as part of the Chapter 13 Bankruptcy process, correspondence with creditors and their legal representatives, attending status conferences, dealings with other creditors not being litigated, lien avoidance proceedings, defense of any motions brought by the Chapter 13 Trustee or other parties and creditors and the like as well as anything else outside of the litigation identified in paragraph "A" above are not litigation fees and will be recoverable at the stated hourly rate herein above, from the Debtor.

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10. LOLMT is granted a lien on the gross recovery for the amount of the contingent litigation legal fee as well as disbursements as fixed by the agreement herein.

11. The Debtor's obligations are as follows:

- (a) To provide LOLMT and its Attorneys, paralegals and legal assistants with all requested documents, bills statements, payment advices, bank records, tax returns, tax bills, appraisals, mortgage account information, court records, land records and to sign any and all necessary forms and documents to allow LOLMT to secure such documentation.
- (b) To provide accurately and honestly all of the information necessary to prepare, file and pursue litigation including all motions or proceedings arising during the course of the litigation.
- (c) To timely respond to all letters, emails and telephone calls from LOLMT and its Attorneys, paralegals and legal assistants.
- (d) To keep LOLMT and its Attorneys, paralegals and legal assistants advised at all times of the Debtors' mailing and physical addresses, telephone numbers, and email addresses.
- (e) To appear at any and all court hearings, depositions or meetings as may be required by the Court or any other party.
- (f) To keep all scheduled office appointments with LOLMT and its Attorneys and to notify the LOLMT and its Attorneys in advance of any problems with the timing and scheduling or rescheduling of such appointments.
- (g) To contact LOLMT and its Attorneys by telephone with the understanding that Attorney Linda Tirelli is only able to return calls between the hours of 8:00 a.m. to 9:30 a.m. and 4:00 p.m. to 6:00 p.m. If Attorney Linda Tirelli is available when the call is actually received, then the call will be taken at that time. However, if Debtors have to leave a message for Attorney Linda Tirelli then Debtors must provide a number that they can be reached at during the designated times. The Attorney or Legal Assistant will make every effort to return all such telephone calls within 48 hours, excluding weekends and holidays.
- (h) To provide any information requested of the Debtor by the Chapter 13 Trustee, the U.S. Trustee, the Court or any other party in the case, unless the Court rules that the Debtor is not required to provide such information.
- (i) To respond as soon as possible to any requests for the Debtor by the LOLMT, its Attorneys, paralegals and legal assistants.
- (j) To comply with the obligations imposed upon the Debtors by the Local Rules of the Bankruptcy Court for the Southern District of New York.
- (k) To participate in good faith negotiations and to not unreasonably withhold authorization, approval or consent to settlement terms. All settlements and final disposition of any contested matter is subject to the Court's approval.

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Attorney Withdrawal from Adversary Proceeding or Contested Matter.

12. Pursuant to the Local Rules of the Bankruptcy Court, the Attorney/LOLMT shall remain the responsible Attorney of record for the litigation until the contested matter is closed, dismissed, settled or otherwise resolved or until Attorney / LOLMT is relieved from such representation by order of the Court. The parties agree that **just reasons** for the LOLMT and its Attorneys to withdraw from the representation of the Debtors, include but are not limited to the following:
- (a) The failure of the Debtors to provide complete, truthful and accurate information to LOLMT and its Attorneys, paralegals and legal assistants.
 - (b) The failure of the Debtor to comply with the Debtor's obligations as provided for in this Agreement and in the Local Rules.
 - (c) The failure of the Debtor to comply with any of the obligations imposed on the Debtors by the Bankruptcy Code and the Bankruptcy Rules.
 - (d) The failure of the Debtor to provide complete, truthful and accurate information to LOLMT, the Court, the Chapter 13 Trustee or the U.S. Trustee.
 - (e) The failure of the Debtor to stay current with the plan payments to the Chapter 13 Trustee.
 - (f) If the Debtors are husband and wife, then any separation, serious domestic dispute, or divorce of the parties.
 - (g) Any irreconcilable conflict between the Attorney and either or both of the Debtors with respect to the litigation of the contested case.
 - (h) Failure or refusal of the Debtor to meet and comply with his obligations set forth herein above in this Retainer Agreement.
13. In the event of the occurrence of just reason as defined in paragraph 12 hereinabove, causing LOLMT to withdraw from the case, the Debtor shall be liable for all expenses and disbursements as well as for the services and work performed by LOLMT its Attorneys, paralegals and legal assistants at the hourly rates described hereinabove, subject to the Court's approval.

Dated: 6-12-12

By: 
Linda M. Tirelli, Esq.
Law Offices of Linda M. Tirelli, PC

Dated: _____

Debtor: 
Mr. Prem Nath, Ch 13 Debtor